

JUL 28 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

ALMA ROSA TORRES GONZALEZ,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-71668

Agency No. A76-368-229

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 24, 2006**

Before: ALARCÓN, HAWKINS and THOMAS, Circuit Judges.

Alma Rosa Torres Gonzalez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an Immigration Judge's ("IJ") order denying her application for cancellation

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of removal. We have jurisdiction under 8 U.S.C. § 1252. We review de novo due process challenges to immigration decisions. *Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001). We deny the petition for review.

Continuous physical presence in the United States is interrupted if the applicant leaves the United States for any period in excess of 90 days. *See* 8 U.S.C. 1229b(d)(2). Torres Gonzalez testified that she left the United States for at least 93 days in 1989 and she does not challenge the agency's continuous physical presence determination.

Torres Gonzalez contends that the BIA violated her due process rights by affirming the continuous physical presence determination on grounds not relied on by the IJ. However, the IJ found that Torres Gonzalez failed to establish continuous physical presence in part because of her 93 day absence, and the BIA affirmed for the same reason. This contention also fails because Torres Gonzalez did not show prejudice. *See Sanchez-Cruz*, 255 F.3d at 779.

PETITION FOR REVIEW DENIED.